

### **III. REMARKS**

Claims 1-56 are pending in this application. By this amendment, claims 1, 20, 21, 40, 41 and 54-56 have been amended. These amendments are being made to facilitate early allowance of the presently claimed subject matter. Applicants do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, claims 1-15, 19-35 and 39-56 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Agrawal *et al.* (U.S. Patent No. 6,606,661), hereafter “Agrawal” in view of Bondarenko *et al.* (U.S. Patent No. 6,389,028), hereafter “Bondarenko,” and further in view of Rumsewicz (U.S. Patent No. 6,832,255), hereafter Rumsewicz. Claims 16-18 and 36-38 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Agrawal in view of Bondarenko and Rumsewicz and further in view of Slotznick (U.S. Patent No. 6,011,537), hereafter “Slotznick.”

With regard to the 35 U.S.C. §103(a) rejection over Agrawal in view of Bondarenko and Rumsewicz, Applicants assert that the cited references do not teach each and every feature of the claimed invention. For example, with respect to independent claims 1, 21, and 55 and similarly claimed in claims 41, 54 and 56, Applicants submit that the cited references fail to teach or suggest, *inter alia*, determining whether the access level for said scarce resource is at a desired maximum, the desired maximum indicating a predetermined maximum number of users, the desired maximum indicating a plurality of users and being independent of a maximum physical

capacity for the scarce resource, that it is desired be simultaneously accessing the scarce resource. The Office equates the feature as previously claimed with the routing of requests to agents in Agrawal. However, Agrawal never teaches or suggests any type of buffer that is maintained to keep the requests below the true physical capacity of its agents. In contrast, the passage of Agrawal cited by the Office indicates that an agent is either available or busy. Furthermore, it would make no sense in the context of Agrawal to expend more capital to hire more agents for the express purpose of underutilizing them while maintaining a system that notifies users when such an underutilized agent might become available. To this extent, Agrawal does not teach or suggest a desired maximum that is independent from a physical maximum. Neither Bondarenko nor Rumsewicz cures this deficiency. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

With respect to dependent claims 20 and 40, Applicants respectfully submit that the cited references fail to teach or suggest responsive to determining that said access level is currently at a desired maximum, determining whether said scarce resource is able to accommodate immediate access by said late requester. Applicants have attempted to further define what constitutes a late requestor in accordance with the Examiner's suggestions. Accordingly, Applicants respectfully request that the Office withdraw the rejection.

With regard to the Office's other arguments regarding dependent claims, Applicants herein incorporate the arguments presented above with respect to independent claims listed above. In addition, Applicants submit that all defendant claims are allowable based on their own distinct features. However, for brevity, Applicants will forego addressing each of these

rejections individually, but reserve the right to do so should it become necessary. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

#### **IV. CONCLUSION**

In addition to the above arguments, Applicants submit that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicants do not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicants do not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicants reserve the right to present such arguments in a later response should one be necessary.

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,

Date: August 28, 2008

/Hunter E. Webb/

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